

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

GREGG SMITH,

Plaintiff,

v.

Case No. 2:12-00788

MOUNT OLIVE CORRECTIONAL CENTER,
JAMES RUBENSTEIN, Commissioner,
West Virginia Division of Corrections (WVDOC),
SAMUEL KEENAN, N. Central Regional Jail (NCRJ),
TERRY MILLER, Executive Director, W. Virginia
Regional Jail Authority (WVRJA), JOHN KING, Chief of
Operations (WVRJA), DAVID MILLER, Primecare
Medical, GEORGE TRENT, Warden (NCRJ),
DAVID BALLARD, Warden, Mount Olive
Correctional Complex (MOCC),
JOE THORTON, Director of WV Dept. of
Military Affairs, (WVDOC), WEXFORD MEDICAL,
DR. EMIL DAMEF, Wexford, Regional
Medical Director (MOCC), NAOMI ROBERTS, HSA,
Wexford (MOCC), KATHY DILLON, Administrative
Services Assistant to Warden Ballard and Grievance
Coordinator (MOCC), EMPLOYEES OF WVRJA, NCRJ, WVDOC,
MOCC, PRIMECARE AND WEXFORD NOT YET HEREIN SPECIFIED,
ARAMARK, and employees,
BRIAN GREENWOOD, Magistrate/CHO (MOCC),
ROBERT VAN FOSSEN, Religious Coordinator (MOCC),
HENRY ROBINSON (WVRJA), CO ELDER (NCRJ),
CO GASKINS (NCRJ), CO LARSON (NCRJ), CO ALTON (NCRJ),
JOHNNY MULLINS, CCI (MOCC), CO ASHCROFT, CO ALLBERRY,
CO N.W. VALENTINE, CO QUEEN, CO _____, Transportation
Officer, (NCRJ) (WVDOC), DEE WAYNE, Counselor,
MIKE BURKOVICH, Counselor (NCRJ), DONNA KUROWSKI,
Counselor (NCRJ), PRIMECARE MEDICAL DIRECTOR,
PRIMECARE MEDICAL DIRECTOR (NCRJ), PRIMECARE
X-RAY TECHNICIAN (NCRJ), LPN (NCRJ),
FOOD SERVICE SUPERVISOR, Aramark (NCRJ), ARAMARK (NCRJ),
DR. _____, Primecare, CHAPLAIN (NCRJ),
CO MAYS, LT. ROGERS (MOCC), CO METHANY (MOCC),
LT. MCKINNEY (MOCC), CO HALL (MOCC),
CO DAVID MILLER (MOCC), CO KYLE BAKER (MOCC),

CO MEADOWS (MOCC), CO JOSHUA KESSLER (MOCC),
 UM LARRY PETTEY (MOCC), STORMY MURPHY (MOCC),
 CO STOVER (MOCC), GEORGINA PETRI (MOCC), CO ROSE (MOCC), MAJORT
 ROBERT RHODES, Chief Correctional Officer (MOCC),
 CO JOCKO BAMAH (MOCC), CO CHERRY (MOCC),
 CO NANCY JACKSON (MOCC), CO SHAWN NUTTER (MOCC),
 CHARLENE SOTAK, Inmate Grievance Coordinator (WVDOC),
 MARVIN PLUMLEY, Acting Warden - Deputy Warden (MOCC),
 TIM WHITTINGTON, Associate Warden - Operations (AWO) (MOCC),
 JASON COLLINS, Associate Warden - Programs (AWP) (MOCC),
 PAUL PARRY, Associate Warden - Security (AWS), (MOCC),
 CHERYL CHANDLER, Executive Assistant to Warden (MOCC),
 CAPT. STEVE CAUDILL, Segregation Commander - Punitive (MOCC),
 LT. JONES, Shift Commander (MOCC),
 CAPT. JAMES MCCLOUD, Punitive Segregation Commander (MOCC),
 WILLIAM KINCAID, Stuart Hall Unit Manager (MOCC),
 ARIETTA KING (MOCC), PAYNE-PETTY, Unit Manager (MOCC),
 JOSH WARD, Unit Manager (MOCC), JASON WOOTEN (MOCC),
 VALERIE ATKINS, Case Manager (MOCC),
 MIKE SAWYER, Case Manager (MOCC), MATT CLEMMONS, Punitive
 Segregation Counselor (MOCC), SHERRILL SNYDER, Segregation
 Committee (MOCC), REGINA STEPHENSON, Segregation Committee
 (MOCC), BREZNICK (MOCC), AMBER COROTHERS, State Shop (MOCC),
 STEPHANIE BOWLES, State Shop (MOCC),
 RODNEY CRAWFORD, Librarian (MOCC),
 JOHN PENNINGTON, Librarian, CPS (MOCC),
 MOCC SEGREGATION COMMITTEE,
 C.J. RYDER, Religious Coordinator (MOCC),
 DEBBIE M, Chaplain Secretary (MOCC),
 LARRY PROPST, Business Manager (MOCC),
 CO MICHAEL BUNCH (MOCC),
 CO PARIS DULANEY (MOCC), CO VERNON JACKSON (MOCC),
 CO SAMUEL KEENAN (MOCC), CO SUMMERS (MOCC),
 CO JEREMY SOUTHERLAND, Bailiff (MOCC),
 CO MICHAEL WHITE, Bailiff (MOCC),
 CO, CPL. JARROD DAWSON (MOCC), CO JOSHUA HYPER (MOCC),
 CO BRAGG (MOCC), CO PRICE (MOCC), CO ERIC BIBBS (MOCC),
 CO ANDREW HUDSON (MOCC), CO BUBBA (MOCC),
 CO ROGER LEGG (MOCC), ROGER BOSTIC, Counselor (MOCC),
 CO JERRY WALTON (MOCC), CO _____ (MOCC),
 CO JARED TAYLOR (MOCC), ANNA KINCAID, HSA, Wexford (MOCC),
 SANDRA MAY, P.A., Wexford (MOCC),
 BARBARA _____, Wexford (MOCC),
 PATRICIA PESHKO, Wexford (MOCC),
 RENEE _____, Wexford (MOCC),
 DORIS PARSONS, LPN, Wexford (MOCC),
 P.A. _____, Wexford (MOCC),

Dr. _____, Wexford (MOCC),
DR. RASHID, Wexford (MOCC),
DR. SUBASH GAJENDRAGADKAR, Wexford (MOCC),
DR. KIM LAUDER, Wexford (MOCC),
STEVE THOMAS, Food Service Supervisor, MDR (MOCC),
YUMI ALLEN, Food Service Supervisor, MDR (MOCC),
CHAD MORTON, Food Service Supervisor, MDR (FSD) (MOCC),
MARION BOWLES, MDR (MOCC),
JANE LUCAS, Trustee Clerk (MOCC),

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the PF&R entered by the magistrate judge on December 3, 2012. The magistrate judge recommends that the court (1) dismiss without prejudice all defendants who are employed at the North Central Regional Jail, the West Virginia Regional Jail Authority, Aramark and Primecare Medical, as the claims against these defendants are subject to suit in the United States District Court for the Northern District of West Virginia, and (2) dismiss all of the plaintiff's remaining claims for declaratory and injunctive relief as moot, in light of the plaintiff's transfer to another correctional facility, including the plaintiff's Motions for

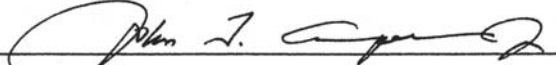
Temporary Restraining Order and Injunction and the plaintiff's Motion to Return All Legal Files and Materials.

The plaintiff has not objected to the recommended disposition. Following a de novo review, it is, accordingly, ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted by the court and incorporated herein;
2. That all defendants who are employed at the North Central Regional Jail, the West Virginia Regional Jail Authority, Aramark and Primecare Medical, be, and they hereby are, dismissed without prejudice;
3. That plaintiff's remaining claims for declaratory and injunctive relief be, and they hereby are, denied as moot, along with plaintiff's Motions for Temporary Restraining Order and Injunction and the plaintiff's Motion to Return All Legal Files and Materials;
4. That the filing fee be, and it hereby is, waived; and
5. That this action be, and it hereby is, stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: January 2, 2013



John T. Copenhaver, Jr.
United States District Judge